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*Attorneys for Plaintiff*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

ZOE HOLLIS individually and on behalf of  
all others similarly situated,

Plaintiff

v.

R & R RESTAURANTS, INC dba SASSY'S,  
an Oregon corporation; STACY MAYHOOD,  
an individual; IAN HANNIGAN, an  
individual; FRANK FAILLACE, an  
individual; and DOES 2 through 10, inclusive,

Defendants. \_\_\_\_\_ /

Case No.: 3:21-cv-00965-YY

**COLLECTIVE ACTION**

**MOTION TO WITHDRAW AS  
COUNSEL FOR PLAINTIFF RAHEL  
PATTERSON**

### **MOTION**

Jesenia A. Martinez and S. Amanda Marshall, attorneys of record for plaintiff Rahel Patterson (“Ms. Patterson”), will and hereby do move this Court pursuant to Local Rule 83-11 and Oregon Rule of Professional Conduct 1.16(c) for an order granting leave to withdraw as counsel for Patterson in the present case.

This motion is based upon a breakdown of communication with Ms. Patterson and her attorneys and Patterson’s breach of the retainer agreement.

### **MEMORANDUM OF POINTS AND AUTHORITIES**

Pursuant to District of Oregon Local Rule 83-11(a) and Oregon Rules of Professional Conduct 1.16(c), S. Amanda Marshall of S. Amanda Marshall, LLC, and Jesenia A. Martinez of Carpenter & Zuckerman, hereby move to withdraw their respective appearances as counsel of record for Ms. Patterson. In support of this motion, counsel states as follows.

1. On July 1, 2022, Ms. Patterson joined this matter as an opt-in plaintiff. *See* Dkt. 50.
2. S. Amanda Marshall is duly licensed to practice law in the State of Oregon. Jesenia A. Martinez has been admitted *pro hac vice* for the present case. *See* Dkt 11.
3. Subsequently, a substantial breakdown in communications occurred between Ms. Patterson and her attorneys of record. Patterson has refused to respond to any of the various emails, text messages, phone calls, and letters from her attorneys. Ms. Patterson has refused to participate in this matter. This breakdown of communications has persisted for months and persists to the present.
4. Currently, Ms. Patterson’s attorneys are unable to get in touch with her and are unaware of her current location.
5. Additionally, it is the movants’ knowledge and belief that Ms. Patterson is in breach of the retainer agreement between her and her attorneys. Pursuant to the retainer agreement, Mr. Patterson has a duty to cooperate with her attorneys and keep them informed of her current contact information and whereabouts.

6. In failing to communicate with her lawyers, Ms. Patterson has breached the retainer agreement.

7. Because of this breakdown in communications and breach of the retainer agreement, Ms. Patterson has rendered it unreasonably difficult for her lawyers to carry out the representation effectively.

8. Because of this breakdown in communications and breach of the retainer agreement, is it no longer feasible or proper for S. Amanda Marshall, and/or Jesenia A. Martinez, to provide adequate representation to Ms. Patterson in the present matter.

9. Because of this breakdown in communications and breach of the retainer agreement, good cause exists for this Court to grant the present motion.

10. It is well established within this Circuit that a client's refusal to communicate with her attorneys warrants the attorneys' withdrawal. *See Hershey v. Berkeley*, No. EDCV 07-689VAP(JCRx), 2008 WL 4723610, at \*1 (C.D. Cal. Oct. 24, 2008) (granting counsel's motion to withdraw where client refused to respond to any of their attempts to communicate); *Capital Communications v. Lucent Technologies*, No. C02-1859, 2004 WL 201596, at \*1 (N.D. Cal. Jan. 16, 2004) (granting a motion to withdraw where counsel's attempts to communicate with the plaintiff and obtain its cooperation had been futile); *Teddy's Red Tacos Corp. v. Vazquez Solis*, No. CV 19-03432-RSWL-AS, 2019 WL 8198312, at \*3 (C.D. Cal. Dec. 30, 2019) (granting motion to withdraw where counsel has been unable to contact clients).

11. Oregon Rule of Professional Conduct (ORPC) 1.16(b) specifically permits a lawyer to withdraw from representation if withdrawal can be accomplished without material adverse effect on the interests of the client and when the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled. ORPC 1.16(b)(1), (b)(5).

12. There is no risk of prejudice to Ms. Patterson. No trial date is currently set for this case.

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13. Further, Ms. Patterson has been informed multiple times, through multiple mediums of communication regarding her obligations to counsel throughout the litigation process. She has been properly warned that counsel shall withdraw from her representation unless she fulfills her obligations to counsel.

**RULE 83-11(a) CERTIFICATION**

14. Pursuant to Local Rule 83-11(a), Ms. Patterson was informed in writing of counsel's intent to withdraw should Ms. Patterson fail to respond. Notice was facilitated through a letter sent via U.S. Mail to Ms. Patterson's last known address, 5005 SE 72nd Avenue, Portland, OR 97206, via text notification of the same to her last known phone number and via email to Ms. Patterson's last known email address. This motion will be served to Ms. Patterson via U.S. Mail and email and served to opposing counsel via CM/ECF at the time of filing.

**WHEREFORE**, based on the foregoing, S. Amanda Marshall of S. Amanda Marshall, LLC and Jesenia A. Martinez of Carpenter and Zuckerman, respectfully request the Court to grant them leave to withdraw as counsel of record for plaintiff Rahel Patterson in this matter.

Dated: October 12, 2022

Respectfully submitted,

/s/ Jesenia A. Martinez  
Jesenia A. Martinez  
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***Attorneys for Plaintiffs***

**CERTIFICATE OF SERVICE**

I certify that on Wednesday, October 12, 2022 a true and correct copy of the attached **MOTION TO WITHDRAW AS COUNSEL FOR PLAINTIFF RAHEL PATTERSON** was served upon the following parties pursuant to Rule 5 of the Federal Rules of Civil Procedure:

**VIA CM/ECF**

Anthony Kuchulis  
Joseph Q. Ridgeway  
**LITTLE MENDELSON P.C.**  
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*Counsel for Defendants*

**VIA U.S. MAIL AND EMAIL**

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Email: [rahelpatterson86@gmail.com](mailto:rahelpatterson86@gmail.com)

*Plaintiff Rahel Patterson*

*/s/ Jesenia A. Martinez*

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Jesenia A. Martinez